
HOUSE BILL No. 1614

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Town police departments. Specifies that laws concerning police and fire employment policies apply to towns and townships. Provides that a statute concerning the appointment of a police chief or deputy police chief applies to a town that does not have a town marshal system. Allows a town that has a board of metropolitan police commissioners to establish a police merit system. Specifies that the residency requirements in a law concerning police employment policies do not apply to a town police department with a board of metropolitan police commissioners.

Effective: July 1, 2003.

Whetstone

January 16, 2003, read first time and referred to Committee on Local Government.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1614

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-3.5-1, AS AMENDED BY P.L.180-2002,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. (a) This chapter applies to each municipality or
4 township that has a full-time paid police or fire department. A
5 municipality may exercise the power of establishing a merit system for
6 its police or fire department under this chapter or by ordinance adopted
7 under IC 36-1-4-14. A township may exercise the power of establishing
8 a merit system for its fire department under this chapter or by
9 resolution established under IC 36-1-4-14. This chapter does not affect
10 merit systems established:
11 (1) by ordinance under IC 36-1-4-14, except as provided by
12 subsection (e);
13 (2) by resolution under IC 36-1-4-14, except as provided by
14 subsection (f); or
15 (3) by a prior statute, except as provided by subsection (b).
16 (b) If a city had a merit system for its police or fire department
17 under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2,



IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

- (1) be a person of good moral character; and
- (2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member of a police or fire department or agency.

(c) After December 31, 1984, the legislative body also may repeal the ordinance described in subsection (b), but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection (b).) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(d) A town that has a board of metropolitan police commissioners under IC 36-8-9 may establish a merit system for its police department under this chapter. If the town establishes a merit system:

- (1) the commission:**
 - (A) has all powers and duties; and**
 - (B) shall perform all functions;****as expressly provided for under this chapter;**
- (2) the board of metropolitan police commissioners:**
 - (A) retains all powers and duties; and**
 - (B) shall continue to perform all functions;****as expressly provided for under IC 36-8-9 that are not expressly provided to the commission under this chapter; and**
- (3) the residency requirements under IC 36-8-9-4 continue to apply to the members of the town police department.**

(e) If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection (b), the city legislative body shall, before July 1, 1983, pass an ordinance to

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1 establish a new merit system under section 3 of this chapter. If the new
 2 merit system is approved as provided by section 4 of this chapter, it
 3 takes effect as provided by that section. However, if the new merit
 4 system is rejected under section 4 of this chapter, within thirty (30)
 5 days the city legislative body shall adopt an ordinance to retain the
 6 prior merit system. The prior merit system remains in effect until the
 7 new merit system takes effect, after which time all members of the
 8 department are entitled to the same ranks and pay grades the members
 9 held under the prior system, subject to changes made in accordance
 10 with this chapter.

11 (e) (f) An ordinance adopted under IC 36-1-4-14 to establish a
 12 police or fire merit system must include a provision under which the
 13 commission, or governing board of the merit system, has at least
 14 one-third (1/3) of its members elected by the active members of the
 15 department as prescribed by section 8 of this chapter. Each elected
 16 commission member must be a person of good moral character who is
 17 not an active member of a police or fire department or agency. If an
 18 ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the
 19 ordinance must be amended to include this requirement.

20 (f) (g) This chapter does not prevent a township or other unit that
 21 has adopted a merit system under section 3 of this chapter from later
 22 amending or deleting any provisions of the merit system contained in
 23 this chapter. However, the merit system must include a provision under
 24 which the commission has at least one-third (1/3) of its members
 25 elected by the active members of the department, as set forth in section
 26 8 of this chapter and a provision that incorporates the requirements of
 27 section 6(a) of this chapter. This subsection does not require the
 28 legislative body to establish a new merit system when it exercises its
 29 power to amend under this subsection.

30 SECTION 2. IC 36-8-4-1 IS AMENDED TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies to all cities.
 32 **This chapter also applies to all towns and townships as specifically**
 33 **provided.**

34 SECTION 3. IC 36-8-4-2 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **This section applies to all**
 36 **cities, towns, and townships. However, this section does not apply**
 37 **to a town police department that has a board of metropolitan**
 38 **police commissioners under IC 36-8-9.** Except as provided in
 39 subsections (c) and (d), members of the police and fire departments
 40 must reside in Indiana in one (1) of the following areas:

- 41 (1) Within the county in which the city, town, or township is
 42 located. or



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(2) In a county that is contiguous to the county in which the city, town, or township is located.

(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).

(c) A municipality with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the municipality's police or fire department to comply with the following:

(1) Reside within the county in which the municipality is located.

(2) Have adequate means of transportation into the municipality.

(3) Maintain in the member's residence telephone service with the municipality.

(d) This subsection applies to a municipality that:

(1) has a population of less than seven thousand five hundred (7,500); and

(2) adopted an ordinance to establish the requirements described in this subsection before September 1, 1984.

A municipality may require, in addition to the requirements of subsection (c), that a member of the police or fire department reside within the municipality until the member has served in the department for five (5) years.

(e) An ordinance adopted under subsection (c) or described in subsection (d)(2) may not require a member of a municipality's police or fire department to reside within the county in which the municipality is located if the member resides outside the county on the date the ordinance is adopted.

SECTION 4. IC 36-8-4-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.5. (a) This section applies to the appointment of a police chief or deputy police chief in all cities the following:

(1) A city.

(2) A town that:

(A) does not have a town marshal system; and

(B) appoints a police chief after June 30, 2003.

(b) An applicant must meet the following requirements:

(1) Have five (5) years of service as a police officer with a full-time, paid police department or agency.

(2) Be a citizen of the United States.

(3) Be a high school graduate or equivalent.

(4) Be at least twenty-one (21) years of age.

(5) Be free of mental illness.

(6) Be physically fit.

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(7) Have successfully completed the minimum basic training requirements established by the law enforcement training board under IC 5-2-1, or have continuous service with the same department to which the applicant was appointed as a law enforcement officer before July 6, 1972.

(c) In addition to the requirements of subsection (b), an applicant for appointment as police chief or deputy police chief must have at least five (5) years of continuous service with the police department of that city immediately before the appointment. This requirement may be waived by the city executive.

SECTION 5. IC 36-8-9-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. A town that has a board of metropolitan police commissioners may also establish a merit system for its police department under IC 36-8-3.5. If the town establishes a merit system:**

(1) the merit commission:

(A) has all powers and duties; and

(B) shall perform all functions;

as expressly provided for under IC 36-8-3.5;

(2) the board of metropolitan police commissioners:

(A) retains all powers and duties; and

(B) shall continue to perform all functions;

as expressly provided for under this chapter that are not expressly provided to the merit commission under IC 36-8-3.5; and

(3) the residency requirements under section 4 of this chapter shall continue to apply to the members of the town police department.

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